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BOOKS RECEIVED

TRADING UP: CONSUMER AND ENVIRONMENTAL REGULATION IN A GLOBAL ECONOMY. By David Vogel. Cambridge, Massachusetts: Harvard Univ. Press, 1995, 322 pp.

No one would dispute that national economies are increasingly more interdependent and, in the case of countries that are signatories to an international trade agreement, more harmonized with one another. As David Vogel discusses in his new book, *Trading Up: Consumer and Environmental Regulation in a Global Economy*, people are arguing over the wisdom of this global trend, especially in light of the growing effects of trade liberalization on national regulations — the very embodiment of national sovereignty today. It makes perfect sense that people are ardently questioning the relationship of trade liberalization and national regulations. After all, the surrender of a degree of national sovereignty to the international institutions that oversee international trade and environmental agreements is just as likely to affect our national regulations for the better as for the worse.

Mr. Vogel describes a wide range of global and regional trade disputes which illustrate either the weakening of national regulations at the hands of international trade forces, or the constraints placed on international trade by rigid national regulations. Reflecting the notion of “trading up” in the book’s title, however, Mr. Vogel posits a “third theoretical outcome of the conflict between trade and regulatory policies,” whereby international economic integration has increased while national consumer protection and environmental regulatory standards have become stronger. The book’s main objective is to reveal the necessary ingredients for realizing this third outcome by examining examples of the tension which naturally exists between trade liberalization and national regulatory policies.

Mr. Vogel begins his book in Chapter 1, “National Regulation in the Global Economy,” by highlighting three themes which permeate the book, and discussing several concepts which he draws on in later chapters to examine the converging relationship of international economic interdependence and national regulation. The book’s three themes are as

follows: 1) national consumer and environmental regulations are increasingly important nontariff barriers (NTBs) on international trade as their numbers increase and tariff barriers continue to decrease; 2) national regulatory policy-making is being increasingly influenced by international sources, especially by trade and trade agreements; and 3) national consumer and environmental organizations have emerged to take an active role in trade policy-making. Mr. Vogel distinguishes the concept of the "California effect," whereby trade liberalization strengthens national environmental and consumer regulatory standards, from the "Delaware effect," which describes a regulatory "race to the bottom." The "California effect" is most likely to occur when two factors exist: 1) a group of nations has agreed to integrate their economies by reducing trade barriers; and 2) the most powerful countries among this group, largely due to political pressure from national consumer and environmental organizations, insist that a trade agreement maintain or strengthen their own national regulatory standards.

The next four chapters analyze several international agreements and treaties under the aegis of the European Union (EU) and the General Agreement on Tariffs and Trade (GATT). The purpose of these chapters is to reveal how international trade agreements have influenced regulatory standards and diminished the role of national protective regulations as NTBs.

Chapter 2, which is entitled "Protectionism versus Consumer Protection in Europe," chronicles the "Union's efforts to reconcile economic integration and consumer protection in the food sector." The development of EU food safety regulations is depicted as a success story of how nations can integrate their economies to provide for trade in food goods while maintaining and, in some instances, strengthening food safety standards. This success is attributed to the EU's centralized control over intra-Union trade and regulations, which dual power Mr. Vogel terms "positive harmonization." Chapter 3, "Environmental Regulation and the Single European Market," traces the relatively recent advent of environmental standards for traded goods in the EU through the vantage point of automobile emissions, chemical safety, and recycling. The impact of the EU on environmental standards is described as illustrating "both dimensions of the California effect." Those dimensions are as follows: 1) domestic producers in "greener" nations will support stronger national regulatory standards when doing so gains them a comparative advantage over foreign producers; and 2) international institutions like the EU, in brokering compromises between their greenest member countries and their less green members, serve to preserve economic integration and improve environmental quality overall.

In Chapters 4 and 5, Mr. Vogel examines the GATT, which is a much weaker governing body than the EU, and the difficulties which the GATT has endured in attempting to make trade and regulatory policies more compatible. In Chapter 4, which is entitled "Greening the GATT," the 1991 tuna-dolphin dispute and the 1993 corporate average fuel economy (CAFE) dispute are discussed in great detail. These disputes are presumably proffered as examples of the GATT's inherent limitations as a trade agreement in promoting environmental protection (as compared to the EU which exerts more pervasive regulatory authority) and the GATT's "largely irrelevant" role in strengthening national and international environmental regulatory standards.

In Chapter 5, "Food Safety and International Trade," Mr. Vogel uses a discussion of food safety regulations as a means for further exploring the relationship between international trade and protectionist regulations. This chapter addresses the issue of when a protectionist regulation is necessary as a trade barrier by discussing several trade disputes, including: 1) a 1985 European Community directive that banned meat treated with one of five growth hormones; 2) a 1989 EC moratorium on the use of bovine somatotropin (BST); and 3) various Japanese regulations on food additives, food labeling, and food safety standards. These disputes evidence the use of sanitary and phytosanitary (S & P) regulations to protect domestic markets from international competition. Mr. Vogel points to a S & P agreement in the 1994 Uruguay Round agreement, which is aimed at ending the use of S & P regulations as "unnecessary obstacles to international trade," as having "the potential to strengthen food safety standards on a global basis."

Chapter 6, "Baptists and Bootleggers in the United States," examines the third theme of the book, namely that national environmental and consumer organizations have come to play an increasingly important role in the making of trade policy, especially when they combine forces with producers (hence the meaning of "Baptist-bootlegger alliances"). Mr. Vogel points out that the role of U.S. consumer and environmental organizations is unusual in that they have fought for restrictions on U.S. exports as well as U.S. imports. Their efforts to restrict exports have been limited, however, because of the political influence of export-oriented producers and U.S. obligations under the GATT. Nonetheless, U.S. consumer and environmental organizations have met with more success in "making the terms of trade agreements more compatible with the maintenance and strengthening of regulatory standards."

The effects of the Free Trade Agreement (FTA) between Canada and the U.S. and the North American Free Trade Agreement (NAFTA) on environmental regulatory standards are discussed in Chapter 7, "Reducing Trade Barriers in North America." While environmentalists in Canada

opposed the FTA, their impact on the debate was largely inconsequential compared with the political input of American environmental groups on the NAFTA negotiation process. The passage of the Supplemental Agreement on the Environment as part of the NAFTA reflects the influence exerted by American environmental groups. Mr. Vogel views their influence as a large reason why the NAFTA is a greener trade agreement than the FTA or the GATT. As to the impact of the NAFTA on national regulatory standards, he writes: "In a sense, what the debate over the environmental impact of the NAFTA accomplished was to make Mexico's access to the American market contingent on improvements in Mexican environmental quality."

For the reader who would like to learn more about the relationship of trade and national consumer and environmental regulation, but does not have time to read the entire book, Chapter 8, "The California Effect," when read in conjunction with Chapter 1, provides a good summary of Mr. Vogel's thesis that trade liberalization has often strengthened regulatory standards. This last chapter (Chapter 8) effectively draws together the theoretical framework which Mr. Vogel develops piece by piece in the book's earlier chapters.

Trading Up provides a highly insightful and comprehensive view into the tensions which exist between international agreements and national regulation. As Mr. Vogel writes, "This book is essentially a comparative study of six trade agreements and treaties and their relationship to national environmental and consumer regulations." The book's strength lies with its analysis of these six trade agreements and treaties as a means of revealing how trade liberalization can and often has strengthened national regulatory standards, contrary to the popular belief that this global trend has had the opposite effect. To help the reader better understand the dynamics of several trade disputes under these agreements, Mr. Vogel includes sections in the book which define relevant international trade concepts and discuss the history behind those trade disputes. These background sections and Mr. Vogel's straightforward approach to some highly technical material make the book highly accessible to both expert and lay readers alike.

W. David Thomas

DERIVATIVES FOR DECISION MAKERS: STRATEGIC MANAGEMENT ISSUES. By George Crawford and Bidyut Sen. New York, New York: John Wiley & Sons, Inc., 1996, 203 pp.

Derivatives for Decision Makers provides an overview of the derivatives landscape in an effort to offer a perspective with which individuals may identify important issues and develop viewpoints. This book examines the major types of derivatives: futures and forwards, options, swaps, and financially engineered products. The authors, George Crawford and Bidyut Sen, present an overview of these forms of derivatives in Part I, and conclude this part by discussing the use of leverage, a crucial attribute of many derivatives. In Part II, the authors examine the application of derivative usage in hedging a stock portfolio, in hedging various business risks, and in making unleveraged investments. The authors discuss risk, disasters, regulation, and means of controlling risk, in Part III. Finally, in Part IV, the authors discuss fiduciary responsibilities in using derivatives. The authors suggest that as financial markets have an increasing degree of complexity and are increasingly globally interconnected, the use of derivatives will continue to play an important role in the marketplace. The authors' underlying theme is that derivatives can be used for protection as well as speculation. Crawford and Sen lay the groundwork for an intelligent discussion of derivative usage, offering suggestions for regulators and investors alike.

In the introduction, the authors distinguish between the four uses of derivatives. First, derivatives can be used as a convenient substitute for other investments, leaving risk and reward unchanged. Second, derivatives can be used to hedge other investments, reducing risk and reward, or to manage the risks inherent in a business. Third, derivatives can be used speculatively to increase risk and reward through leverage. Fourth, derivatives can be used as the basis for modern financial engineering. The introduction to the various types of derivatives provides both the avid investor and interested student alike a starting point with which to review the derivatives market in general.

In the first four chapters that establish Part I, Crawford and Sen offer an introduction to the market of derivatives. In Chapter One the authors differentiate futures, forwards, and options. A futures contract is an agreement requiring the delivery of a certain quantity of an item by a specified date in the future at a price agreed upon at the time of contracting. A forward contract is an agreement requiring the delivery of a certain quantity of a currency or other asset by a specified date in the future at a price agreed upon at the time of contracting. The authors explain that futures contracts differ from forward contracts in that they are traded on an organized exchange with standardized terms. Options are

distinguished as giving the right to buy or sell an asset at a specified price within a fixed period of time. In Chapter Two, Crawford and Sen explain swaps, "swaptions," and structured notes. Swaps are understood as agreements to exchange one set of cash flows for another. Swap agreements are often used to hedge against interest rate changes and fluctuations in foreign exchange rates. Swaptions are nothing more than options to enter into a swap agreements. Notes in which some part of the payment is based on derivatives can be referred to as being structured. The authors suggest that such structured notes can be used to achieve favorable rates of financing that are tailored to meet the individual investor's needs. In Chapter Three, collateralized mortgage obligations ("CMOs") are explained. CMOs are instruments created to address the risk of prepayment in mortgage-backed securities. Investors are divided into successive maturity groups called tranches, which receive principal payments in relation to different maturities. The authors suggest that CMOs create high-priority classes that have little prepayment risk. Finally, in Chapter Four, the authors discuss the important notion of leverage. Leverage is explained as the ratio of the amount of money represented by an investment to the amount of money actually invested. The first part of the book illustrates that the derivative market does not provide merely a limited number of small investment opportunities, but rather provides a diverse pool of financial tools for both speculators and risk-averse investors.

In the four chapters that establish Part II, Crawford and Sen examine the application of the previously explained derivatives. In Chapter Five, Crawford and Sen suggest using derivatives in hedging and speculating investments and corporate risk. Hedging is a strategy used to protect against losses due to fluctuations in market prices. Hedging with derivatives involves avoiding risks rather than taking risks. Speculation, as opposed to hedging, involves the taking of risk in hopes of profiting from market fluctuations. In Chapter Six, the authors set forth detailed examples which the savvy investor could follow to use derivatives to hedge his stock portfolio. These examples illustrate that hedging a single asset or a portfolio is appropriate at certain times, but not at others. The authors suggest this realization can lead to a strategy of dynamic hedging, in which the nature and extent of the hedge changes, depending on price movements, changes in the investor's expectation of future market conditions, and changes in the cost of the hedge. In Chapter Seven, Crawford and Sen distinguish between those risks that are unavoidably accepted when entering into a particular business, as primary risks, and those risks that are unwanted and can be eliminated or hedged, as secondary risks. Having made this distinction, the authors offer examples of

how derivatives and derivative based structures can be used to hedge many unwanted, secondary risks.

In the four chapters that establish Part III, the authors review the inherent risks of derivatives, the recently publicized derivative disasters, the global regulation of derivatives, and then offer suggestions for future derivative regulation. In Chapter Nine, Crawford and Sen explain that risk is as inherent in derivative usage as it is in any business enterprise. The authors suggest that although derivatives instill fear in many individuals, such fear can be eliminated if individual investors simply refuse to buy anything that they do not understand. In Chapter Ten, the authors set forth the alleged facts concerning losses in Orange County, California, Baring's PLC, Metallgesellschaft, and Bankers Trust. In each example, the authors illustrate the disastrous uses of derivatives. In Chapter Eleven, the authors overview the regulatory bodies that oversee the various derivative markets. Such regulatory bodies exist domestically, such as the Commodities Futures Trading Commission and the Securities and Exchange Commission, and globally, such as the Group of Thirty and the Bank for International Settlements. In Chapter Twelve, Crawford and Sen detail many of the proposals for regulatory improvements. Generally, such proposals center on issues of internal controls, adequate disclosure, and clear delineation of responsibilities among counterparties. This part of the book effectively analyzes a series of the essential concerns of any individual interested in derivative investment.

In the four chapters that establish Part IV, Crawford and Sen examine the nature of fiduciary duties in general, in order to see how they relate to the handling of derivatives in particular. In Chapter Thirteen, the authors discuss various duties of fiduciaries. They distinguish the duty of care from the duty of loyalty, and then suggest that there is also a duty to hedge. In Chapter Fourteen, the authors review the standard of care in delegation. They suggest such a standard requires attention to three basic elements: selection of the expert, instruction of the expert, and monitoring of the expert. In Chapter Fifteen, Crawford and Sen review the legal liability that exists in using derivatives. Casually using such terms as *ultra vires*, fraud, and omissions, the authors only briefly overview what causes of action may be brought in the wake of derivative losses and specific elements of such causes of action. In Chapter Sixteen, the authors offer their perspective on the future of derivatives. In spite of the current wave of global deregulation, the authors suggest that derivatives will be regulated and under oversight for a number of years. As more individuals and organizations use derivatives, the complexity of this investment tool will, according to the authors, require scrutiny.

Derivatives for Decision Makers provides an illustrative overview of the global derivative market. For the individual investor, management ex-

ecutive, or corporate attorney, this book has something to offer. The individual may establish an understanding of derivative markets to either protect current investments or to speculate on future investments. The executive may learn new means of eliminating unnecessary secondary risk through the use of financially engineered products. The corporate attorney may learn new tools with which to help his client in considering asset protection. No matter what the industry, risks exist. *Derivatives for Decision Makers* uses numerous examples to help its readers learn to eliminate such risks. While an understanding of finance would allow for an easier read, Crawford and Sen offer a complicated topic in a manner easy for all to follow.

Jonathan Adam Bloom

TRADERS IN A BRAVE NEW WORLD: THE URUGUAY ROUND AND THE FUTURE OF THE INTERNATIONAL TRADING SYSTEM.
By Ernest H. Preeg, Chicago and London: The University of Chicago Press, 1995, 298 pp.

In December of 1994, the U.S. Congress approved implementing legislation for the Uruguay Round Agreement, which was later signed by President Clinton. The signing marked the conclusion of the Uruguay Round's thirteen-year life, which consisted of the most comprehensive and intense multilateral trade negotiations ever. The Uruguay Round of the General Agreement on Tariffs and Trade (GATT) will undoubtedly lead to a fundamental transformation of the world trade system, as it both deepened and enlarged the rules governing international trade. But what the Uruguay Round, the eighth in a series of post-1945 multilateral trade negotiations, may in the future be most remembered for is its creation of the World Trade Organization (WTO). The WTO was created in early 1995 to oversee the rules and provide a forum for settlement of disputes among nations.

In *Traders in a Brave New World*, Ernest H. Preeg, a distinguished former U.S. diplomat and the current William M. Scholl Chair in International Business at the Center for Strategic and International Studies in Washington, D.C., offers a clear and nontechnical history of the Uruguay Round from the end of the Tokyo Round in 1979 to the creation of the WTO. His examination focuses on the historical context of the agreement, its substantive content, the key actors and the future impact of the round on the international trading system. Preeg also assesses the final agreement's potential effects on world income and trade for both industrialized and developing countries and discusses future short and long term problems facing trade negotiators. Ultimately, he argues that the Uruguay Round agreement, although it left a continuing agenda, is a major achievement in broadening and deepening the multilateral framework for world trade and a victory for economic liberalism and liberal democracy.

Preeg's opening chapter examines four principal developments that worked to transform the international trading system during the 1980s. First, he argues that a surge in technological innovation and increasing private sector initiative to operate on an international scale had greatly deepened the integration of markets across national borders. Next, he contends that the globalization of world markets underway during the 1980s was uneven geographically and tended to accelerate a tripolarization of industrial development in Western Europe, North America and East Asia. Third, Preeg argues the fall of communism resulted in a triumph for economic liberalism, which, in turn, provided a more promising basis for reducing trade barriers. Finally, he contends that U.S. trade

leadership remained the dominant force driving the Uruguay Round, which was not surprising given the fact that U.S. trade leadership perceived the old GATT as preserving an uneven playing field in which U.S. markets were more open than foreign markets. For Preeg, these developments set the stage for another round of GATT negotiations. In the next few chapters, Preeg details a chronological history of the Uruguay Round. He pays particular attention to the five key issues of the Round, namely trade in services, protection of intellectual property, agriculture, GATT institutional reform, and trade and the environment. Within these chapters, he also discusses the theoretical underpinnings of the Round. Under the so-called "bicycle theory" propounded by U.S. trade negotiators, a liberal trade policy must have forward momentum toward a still more open trading system or it will fall prey to protectionist forces which are always lurking in the background. The advancement of this theory, according to Preeg, provided one of the best defenses against growing protectionism in the early 1980s and 1990s. Nevertheless, protectionist forces within industrialized and developing nations did delay the Round and almost destroyed the entire agreement.

As the Round's agenda developed, Preeg describes the inevitability of several confrontations. One such looming struggle was between Japan and the U.S. in the strategic information technology sector. The author reasons that by 1985 the burgeoning U.S. trade debt, particularly with Japan, had become unsustainable, while Japan's market remained closed to most American manufacturers. The European Union (EU) was also becoming more hostile to Japanese trade policies. Like the U.S., the EU wanted to pry open Japan's seemingly impenetrable market. Preeg also focuses on the U.S. push for broader intellectual property protection, despite the belief of some developing countries that intellectual property was a technique of the industrialized powers to preserve their hegemony by creating rigid monopolies that seriously restricted trade. Labor standards and environmental issues would also prove contentious. But according to Preeg, the biggest threat to a successful round was the agricultural issue, as the EU, particularly the French, resisted efforts by the U.S. to reduce and eliminate agricultural export subsidies. Consequently, the Uruguay Round dragged on while the issue marginalized the important agricultural stakes of other participants. The agricultural impasse also, according to Preeg, undermined confidence in the multilateral system, and as a result, trade policy momentum shifted to deepening regional blocs and bilateral arrangements.

In Chapter 7, "Diplomatic and Political Endgames," Preeg provides an insightful view of the final resolution of many of these issues. The agricultural issue finally reached the point of closure, but not in favor of U.S. interests. The French had achieved a significant watering down of

the proposed bill, even though the basic framework for reversing the upward trend of subsidized exports and cutting them back by about one fifth over six years was maintained. Also, importantly, the EU and U.S. were able to get Japan and South Korea to open up their rice markets to some degree. As a result, South Korean Prime Minister Hwang In-Sung became an immediate casualty of the agreement, as he was forced to resign in the aftermath of riots triggered by his decision to permit some rice imports.

In the textile sector, the U.S. was forced to "bite the bullet" as its efforts to protect its textile industry ran into complete opposition from the rest of the world. However, new tougher intellectual property standards were approved as developing countries began to realize that foreign investment was related to strong intellectual property laws. The issue of opening up European audiovisual services saw no progress as France, asserting its strong cultural identity, refused to let Hollywood run roughshod over its movie theaters. Labor issues were never addressed because they were politically sensitive national issues for most countries and the U.S. had only one firm ally, France. As the Round lingered on, the last major issue to be resolved was the adoption of the WTO to succeed the GATT and incorporate all facets of the Uruguay Round Agreement.

In Chapter 8, Preeg assesses the Uruguay Round and generally gives it a favorable rating, although he argues that it is crucial, if future rounds are not to take as long, that the agenda and underlying political basis for a multilateral, comprehensive initiative be carefully developed beforehand. He also suggests that the leadership role of the U.S. in the Round was weakened in the final stages, particularly through much of 1993 under the Democratic administration of President Clinton. As a result, EU leadership took up most of the slack and became more assertive, shifting the final Uruguay Round leadership to a more balanced U.S.-EU orientation. The author also discusses the likely effects of the agreement on world income and trade. He argues that the dynamic effects of trade liberalization will lead to substantial gains in world income and welfare. He cautions, however, that the agreement will have only a relatively small effect on trade balances, and while it should benefit developing countries more than industrialized countries, the ultimate impact on developing countries will depend critically on the economic policies pursued within each of these countries. As for the WTO, Preeg argues that its new dispute settlement procedure will be prompt and reliable in producing results. The only question is whether it will be fully utilized as the central forum for trade-policy deliberations and dispute resolution.

In the last two chapters, the author discusses the "brave new world economic order" and a trade agenda for the remainder of the 1990s. He contends that there is a relatively broad consensus on four general trade

objectives for the rest of the 1990s. These objectives include progressively lowering trade barriers, broadening the mandate of the multilateral trading system, strengthening and harmonizing WTO rules and regulations, and enforcing more prompt and equitable dispute settlement. Preeg also sees a future challenge in WTO participation for China and Russia. He finds it peculiar that two of the five permanent members of the United Nations Security Council are not full members of the WTO. Nevertheless, he recognizes that joining the WTO presents major problems of assimilation for both economies, especially China's, which is still predominantly state-controlled. For the future, Preeg sees a void in leadership, and argues that the U.S. appears hesitant to continue its long-standing role as leader for open trade. While he does not know who will fill the void, he believes that in the future, China will be of central importance to the new economic order because of its extraordinary growth in industrial production and exports, and its central location in Asia.

Preeg's *Traders in a Brave New World* provides an insider's view into the negotiations of the Uruguay Round Agreement and its future implications. The book outlines the basic trade areas which are covered by the agreement and those areas which need to be addressed in the future. Particularly intriguing is Preeg's chronicle of the EU-American impasse over agriculture and his discussion of the tensions between regional and multilateral trade agreements. At times Preeg does not give an issue all the attention the reader may feel it deserves. For example, he only touches the surface of concerns about the erosion of national sovereignty under the latest GATT agreement. Nor does he discuss protectionist arguments in detail, as it is clear that he truly believes in the efficacy of trade liberalization. Overall, though, Preeg's book is an invaluable introduction into one of the most important international agreements of our time, and should be satisfying to both lay readers and international policy experts alike.

Damian J. Mark

DIRTY MONEY: THE EVOLUTION OF MONEY LAUNDERING COUNTER-MEASURES. By William C. Gilmore, Council of Europe Press, 1995, 317 pp.

Dirty Money: The Evolution of Money Laundering Counter-Measures provides an overview of the international problem of money laundering and exposes the collective efforts taken to combat this global dilemma. As a specialist in the field of money laundering counter-measures, Mr. Gilmore's logical organization is helpful to those neophytes less familiar with the subject.

The book is divided into eight brief chapters, each followed by extensive notes. The first two chapters provide a synopsis of the scope of international crime focusing specifically on the stages of the money laundering process. The next two chapters examine the responses of the United Nations and the Financial Action Task Force (FATF). Finally, the last four chapters summarize regional responses to money laundering, including those of Western, Central, and Eastern Europe, and the Caribbean Basin.

Cross-border criminal activity is on the rise for a number of reasons. As technology improves, international mass communications, electronic banking, and new electronic tools facilitate criminal transactions. In addition, the European Union, which seeks to create one internal European market, enables criminals to transact transborder business with ease. In response to the rise in crime since the inception of European integration, the member states have vowed to take action to minimize criminal abuses. The states created Europol to coordinate the exchange and analysis of police data pertaining initially to drug trafficking and money laundering. The International Criminal Police Organization in Lyon, France and the World Customs Organization based in Brussels are well-established organizations which are also focusing on eliminating the threats posed by the international drug trade.

Efforts have been made to address organized crime and the threat it poses to democratic regimes, stability of economies, and legitimacy of financial institutions. Significantly, in September of 1992, "Operation Green Ice," an undercover police operation which ultimately ended the collusion between the Colombian cocaine cartels and Italian organized crime groups, resulted in seizures of "\$47.7 million, the freezing of 140 bank accounts containing \$7.3 million, and dozens of arrests."

Chapter Two gives an overview of the three-part process of money laundering. The "placement stage" involves buying an asset or investing cash in a financial institution after engaging in criminal activity. Next, the owner seeks to conceal his identity and origin of the funds in the "layering stage." Finally, launderers attempt to integrate the illegal funds

into the legitimate financial markets during what is appropriately termed the "integration stage." Money launderers seek countries identified as tax havens, i.e. those having low rates of tax, staunch bank or commercial secrecy laws, and advanced communications facilities. Authorities have concentrated on preventing corruption of financial institutions by the activities of money launderers in tax havens such as the Caribbean Basin.

Chapter Three addresses the United Nations response to international crime which culminated in the 1988 UN Convention in Vienna. This Convention focused specifically on criminalizing money laundering and confiscating criminal proceeds. The Convention enumerated a comprehensive list of drug trafficking activities which participating nations were to criminalize. The Convention also provided guidance to ensure that money laundering and drug trafficking offenses receive appropriate judicial attention. The Vienna Convention Treaty, which went into force in 1990, has been espoused by 101 nations as well as the European Economic Community. Other nations include the major industrial countries as well as Caribbean and Central American states.

Chapter Four describes the role of the Financial Action Task Force (FATF). This body, established in 1989, focuses exclusively on combating money laundering. The Task force grew out of the Paris Summit Meeting of the Heads of State or Government of the seven major industrial nations. FATF has been renewed periodically and is currently scheduled for renewal in 1998-99. The general recommendations made by FATF in its 1990 Report include: encouragement of all countries to embrace the Vienna Convention Treaty; adoption of financial institution secrecy laws so as not to inhibit implementation of Vienna Convention Treaty; and increased international cooperation and assistance in money laundering investigations. FATF emphasizes global awareness of the issues involved in successfully countering criminal activity.

The final four chapters analyze the initiatives taken in Europe and the Caribbean Basin nations. Since the Maastricht Treaty went into effect in 1993, the nations of western Europe have emphasized intergovernmental cooperation relating to combating criminal activities. The 1991 Directive constituted the first legislation adopted by the European Community (EC). The Directive takes a preventive approach to money laundering and recognizes not only its link to drug trafficking but also to other criminal activities. The Directive encourages Member States to adopt a holistic approach to fighting all criminal activities. Finally, the Directive seeks maximum cooperation between institutions/supervisory bodies and policing authorities. Specifically, Article 6 of the Directive requires financial institutions to disclose any suspicious transactions to the authorities.

The Central and Eastern European nations harbor serious criminal elements as they struggle to establish free markets and democratic re-

gimes. Organized crime seems to pose the biggest threat to the stability of this region. To address these problems, many nations in this area have become members of Interpol and signed multilateral and bilateral agreements. While economic uncertainty seems to plague this area, money launderers continue to pose a threat. The Council of Europe conference held in 1994 clarified the extent of the damage wrought by money laundering in these transitional nations while suggesting courses of action to combat the problem.

Finally, the Caribbean Basin nations have long been a haven for criminality due to their lenient tax policies, strict bank secrecy laws, and proximity to the United States. In response, Caribbean and Central American countries met in Aruba in 1990 to discuss remedies to the pervasive money laundering in the region. The nations agreed to consider adopting the forty recommendations of the FATF and also established the Caribbean Financial Action Task Force (CFATF).

The central theme running through all the initiatives seems to be awareness of the global dimension of money laundering. Current debate focuses on whether an international criminal court should be created and whether sanctions should be imposed on those nations which do not implement FATF's forty recommendations. Although significant progress has been recognized, nations must not lose momentum or focus in diminishing criminality internationally.

After reading *Dirty Money*, one realizes that our relatively recent attainment of global markets has in some ways worked to our detriment. We have essentially facilitated the process of money laundering internationally by the easing of interstate commerce laws. Gilmore addresses the international nature of money laundering along with the international response to the dilemma in a cursory fashion. Although one cannot claim to be an expert on the subject after reading this book, it does provide an excellent springboard for further research.

Marisa Trasatti

INTERNATIONAL JUSTICE FOR FORMER YUGOSLAVIA: THE WORKING OF THE INTERNATIONAL CRIMINAL TRIBUNAL. Karine Lescure and Florence Trintignac. Boston: Kluwer Law International, 1996, 119 pages.

With the outbreak of war in the former Yugoslavia in 1991, an aghast European continent looked on in silence as a total war between ethnic populations specifically targeted civilian non-combatants. The ensuing organized violence re-erected a level of depravity not witnessed in this part of the world since the Second World War. Genocide and rape were viable means purposefully employed with the intent of subduing local populations and rewriting past geo-political realities. In *International Justice for Former Yugoslavia*, authors Karine Lescure and Florence Trintignac catalogue the international community's legal response with the formation of the Hague International Criminal Tribunal. With the avowed purpose of "acquaint[ing] victims and witnesses with the means available to them to institute proceedings as well as protective measures" and to "alert public opinion and mobilize holders of public office and public figures in regard to the need to bring war criminals to justice," this book achieves these goals.

The book begins with an examination of the United Nations Security Council's considerations in 1993, when it resolved "through its resolutions 808 and 827 to create an international Tribunal with the sole purpose of judging those persons deemed responsible for serious human rights breaches committed on the territory of former Yugoslavia since 1991." While emphasizing the unique nature of the powers bestowed upon the Security Council to restore peace, the authors contend that this world body acted consciously to limit its political and moral objectives within a coherent legal framework. The authors additionally assert that the basis for this jurisprudence is a roster of diplomatic and legal precedents which contributed to the "development of legal protection of human rights". It is clear at this foundational point (and is a troubling aspect throughout the entire work) that no comparative analysis of contrary viewpoints are offered to challenge the authors' basis that the creation of the Hague Tribunal is legitimate.

The book proceeds with a cursory presentation of the design of the court and a concise overview of the Tribunal's jurisdiction. A discussion of procedural questions, such as the possible joinder or disjoinder of cases and the use of indictments, follows. While the analysis is brief, by citing historical documents, a rational analytic flow is provided. The book's success is a consistent formula of using textual extracts of the original documents on corresponding pages along with summaries and boxed synopses.

In the next section dealing with the relief and protection provided to victims and witnesses, the authors describe the Hague Tribunal's overall strategies. While commenting on issues such as the budget and the limited distribution of aid to aggrieved parties, the authors assert that protection given to these individuals is wholly inadequate. One such critical evaluation is that the Tribunal does not permit the linking of criminal and civil proceedings. Consequently, because this forum limits itself to penal measures, victims are not afforded monetary remedies for their injuries. In addition, the authors assert that support services and psychological treatment should also be offered throughout the proceedings and after any trial.

The authors consider the "legitimacy and credibility of the criminal court [to] depend on . . . the necessary protection of victims and witnesses and the equally necessary respect for the rights of the defense." In essence, the authors propose that the court is engaged in a difficult balancing of victims' rights and the accepted standard of the a defendant being considered innocent until proven otherwise. In response to the magnitude of the crimes committed, evidentiary standards commonly used to either bring a cause of action or defend against one have been modified. Given the wide use of rape as a "weapon of war" during the Yugoslav conflict, the Tribunal has limited the range of defenses open to the accused. Limitations on the defense include the prohibition of rebutting evidence by arguing either the consent or prior sexual behavior of the victim. The court has also proposed lowering the standard of evidence to prove sexual assaults. Curiously, the authors declined to reflect upon any arguments which reject these approaches or why a lowering of the standards has not already taken place.

Critical to the mandate and success of the Tribunal is its ability to actually prosecute individuals for war crimes. Described as a problem of "competing jurisdictions," the authors raise key questions about cooperation and double jeopardy (*non bis in idem*) between the international court and the judicial systems of the newly formed Republics. For instance, what would happen if the Hague Tribunal wished to try an accused individual and the national forum had a similar desire? While it is customary to assert the principle of the "primacy of international law over national law," the usual method of averting such challenges is the consideration of the converse and defer to a competent national body. However, in a "referral back" instance, a national court would not be able to retry an accused on crimes already adjudicated in an international setting.

While the authors engage in an unusually lengthy discussion of the many facets of the problem of double jeopardy and cooperation, they readily admit that the primacy of the Tribunal must be established. It is

their contention that the national courts simply cannot "offer sufficient guarantees of impartiality and objectivity" in pursuing justice. While the authors cite much evidence in the way of persuasive authority, such as United Nations Resolutions and Secretary-General reports, they do not answer the question of why nations should abide by these recommendations. While recognizing its potential, the authors seem to dismiss too quickly the idea that member nations possess different political objectives for the Tribunal and will act in a coherent and unified "political will" to facilitate justice.

The Conclusion addresses the political realities that challenge the judicial proceedings of the Tribunals. The authors recognize that a negotiated peace in Yugoslavia will entail possible bargaining for amnesty from war crimes prosecution. This, posed with the difficulties in overcoming certain evidentiary burdens of productions, such as in the sexual assault charges, are major hurdles and could undermine the court. The authors state the Tribunal is challenged by the "difficulty of employing suitable instruments which are properly adapted to the situation, and especially the situation in the field." In this light, it is proposed that consideration be given to international legal assistance programs and "a sort of judicial flying squad, available to the UN, which could intervene in a particular national criminal jurisdiction to guarantee its impartial functioning." The authors conclude with the hope for success of the Hague Tribunal and that this *ad hoc* tribunal foreshadows the creation of a permanent impartial international criminal court.

International Justice for Former Yugoslavia is an excellent primer on the formation and function of the International Criminal Tribunal. A reader unfamiliar with the workings and dynamics of the Tribunal will find this book a logical starting point and a useful reference. The clear and concise use of historical documents and extracts provides a sound basis for understanding.

A more sophisticated reader desiring a critical analysis of the types of human rights violations occurring in the former Yugoslavia and the effect that the Tribunal will or has had on the peace process will be somewhat disappointed. The book is clearly not designed to provide detailed discussion about differing views. For example, the book proceeds from the questionable basis that the international community was harmoniously unified into a single approach to promote international human rights and to create the *ad hoc* criminal court. While the authors readily concede that the judicial process may be influenced by political considerations and the possible leveraging of amnesty for peace, they fail to provide more than a cursory analysis of this serious dilemma. By recognizing the

limitations of this book beforehand, however, a reader is unlikely to be disappointed and will find it an excellent primer and an enjoyable read.

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